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This request is being filed concurrently with a Notice of Appeal and is responsive to the Final Office Action of April 5, 2006. Reconsideration and withdrawal of the rejections under 35 U.S.C. §103(a) are respectfully requested in view of the following remarks.

### Examiner's Assertions

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*Independent Claim 1*

Applicants expressly incorporate by reference the arguments presented on page 17 of the Amendment dated January 12, 2006 ("Amendment"). That is, Dietrich does not teach or suggest "dividing a priority ranked release schedule into "N" separate release schedules", as recited in claim 1.

In response to the above-noted argument, the Examiner maintained the rejection and stated that "Dietrich teaches an allocation algorithm for allocating available resources in order of priority, which teaches applicants' claimed invention" (see pages 6-7 of the Detailed Action of the Final Office Action dated April 5, 2006 ("Final Office Action")).

Applicants submit that "an allocation algorithm for allocating available resources in order of priority" is not what is recited in the claimed invention. Instead, claim 1 recites "dividing a priority ranked release schedule into "N" separate release schedules". Dietrich simply makes no mention whatsoever a priority ranked release schedule or "N" separate release schedules.

Even assuming *arguendo* that Dietrich does disclose a priority ranked release schedule, which applicants do not concede, there is no teaching in Dietrich of dividing that release schedule into "N" separate release schedules. To the contrary, Dietrich merely describes allocating resources to part numbers according to priority. However, such allocation does not teach or suggest dividing a priority ranked release schedule into separate release schedules.

Further regarding claim 1, Applicants expressly incorporate by reference the arguments presented on page 17 of the Amendment that Dietrich does not teach or suggest "sorting the "N" separate release schedules in a priority order based on an original priority ordering of the priority ranked release schedule; and allocating available component supply based on the priority in the "N" separate release schedules", as recited in claim 1.

In response to the above-noted argument, the Examiner maintained the rejection but provided no additional explanation.

Applicants submit that Dietrich does not teach or suggest these features. Dietrich does not disclose sorting separate release schedules, much less sorting in a priority order based on an original priority ordering. These features are simply not present in Dietrich. Instead, as discussed above, Dietrich merely describes allocating resources to part numbers according to priority. However, such allocation does not teach or suggest dividing a priority ranked release schedule into separate release schedules and then sorting the separate release schedules in a

priority order, as recited in the claimed invention.

Further regarding claim 1, Applicants expressly incorporate by reference the arguments presented on page 17 of the Amendment that Hall does not cure the above-noted deficiencies of Dietrich because Hall does not teach or suggest “allocating available component supply based on the priority in the “N” separate release schedules”, as recited in claim 1. To the contrary, Hall makes no mention of release schedules or component supply.

In response to the above-noted argument, the Examiner maintained the rejection and stated that “Hall discloses the concept of rationing a supply based on priorities of resources” (Final Office Action, page 7).

Applicants submit that “the concept of rationing a supply based on priorities of resources” is not what is recited in the claimed invention. Instead, claim 1 recites “allocating available component supply based on the priority in the “N” separate release schedules”. Hall, on the other hand, discloses rationing a supply of water based upon a priority of crop value. Hall does not disclose component supply or release schedules. Therefore, no proper combination of Dietrich and Hall teaches or suggests each and every element of claim 1.

#### **Independent Claims 11, 18 and 22**

Applicants expressly incorporate by reference the arguments presented on page 18 of the Amendment. That is, the applied references do not teach or suggest dividing a priority ranked release schedule into “N” separate and smaller sized schedule releases, as discussed above. Moreover, the applied references do not teach or suggest sorting the “N” separate and smaller sized schedule releases based on the original priority ordering and an additional level of priority ordering, as recited in the claimed invention.

In response to the above-noted argument, the Examiner maintained the rejection but provided no additional explanation.

Applicants note that the Examiner has made a blanket assertion of unpatentability of claims 11, 18 and 22 by grouping claims 11, 18 and 22 with the rejection of claim 1. In both the Non-final Office Action and the Final Office Action, the Examiner failed to give any explanation whatsoever of how the applied references teach or suggest sorting the “N” separate and smaller sized schedule releases based on the original priority ordering and an additional level of priority ordering. Applicants maintain that Dietrich and Hall, alone or in combination, do not teach or

suggest these features. There is simply no disclosure in either document of sorting schedule releases, much less of sorting based on an original priority ordering and an additional level of priority ordering. The applied references are completely silent as to an original level of priority ordering and additional level of priority ordering.

### **Independent Claim 23**

Applicants expressly incorporate by reference the arguments presented on page 18 of the Amendment. That is, the applied references do not teach or suggest dividing a priority ranked release schedule into “N” separate and smaller sized schedule releases, as discussed above. Moreover, the applied references do not teach or suggest a machine readable medium containing code for providing a supply schedule, as recited in the claimed invention.

In response to the above-noted argument, the Examiner maintained the rejection but provided no additional explanation.

Applicants note that the Examiner has made a blanket assertion of unpatentability of claim 23 by grouping claim 23 with the rejection of claim 1. In both the Non-final Office Action and the Final Office Action, the Examiner failed to give any explanation whatsoever of how the applied references teach or suggest a machine readable medium containing code for providing a supply schedule. Applicants maintain that Dietrich and Hall, alone or in combination, do not teach or suggest these features. There is simply no disclosure in either document of a machine readable medium containing code for providing a supply schedule having the recited functionality.

### **Dependent Claims 2, 3 and 19**

Applicants expressly incorporate by reference the arguments presented on page 18 of the Amendment that the applied references do not teach or suggest the features of the dependent claims.

In response to the above-noted argument, the Examiner maintained the rejection and asserted, without any evidentiary support whatsoever, that the features of claims 2, 3 and 19 would have been obvious to a person of ordinary skill in the art (Final Office Action, page 7).

Applicants disagree and submit that the Examiner is improperly taking Official Notice with respect to claims 2, 3 and 19. Pursuant to MPEP §2144.03, there must be some form of

evidence in the record to support an assertion of common knowledge, and

... [if] such notice is taken, the basis for such reasoning must be set forth explicitly. The examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge. See *Soli*, 317 F.2d at 946, 37 USPQ at 801; *Chevenard*, 139 F.2d at 713, 60 USPQ at 241. The applicant should be presented with the explicit basis on which the examiner regards the matter as subject to official notice and be allowed to challenge the assertion in the next reply after the Office action in which the common knowledge statement was made.

Applicants submit that the Examiner has merely asserted that the recited claim features would have been obvious, and has not provided any basis for such reasoning. Accordingly, Applicants traverse the taking of Official Notice and request that the Examiner provide documentary evidence supporting the assertions in the next Office Action, or withdraw the rejection.


#### **Dependent Claims 4-6**

Applicants agree that De Andrade (US 6,606,527) does qualify as prior art, but submit that De Andrade does not cure the deficiencies of Dietrich and Hall with respect to the claimed invention. More particularly, De Andrade does not teach or suggest any of the above-noted features that are not present in Dietrich and Hall.

#### **CONCLUSION**

Reconsideration of the Final Office Action and allowance of the present application and all the claims therein are respectfully requested and believed to be appropriate.

Respectfully submitted,  
Sanjay HEGDE et al.

A handwritten signature in black ink, appearing to read 'Andrew M. Calderon', written over a horizontal dashed line.

Andrew M. Calderon  
Reg. No. 38,093

GREENBLUM & BERNSTEIN, P.L.C.  
1950 Roland Clarke Place  
Reston, VA 20191  
(703) 716-1191